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09/871,199	05/31/2001	James M. Kain	20341-67618	9889

7590
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EXAMINER

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1 UNITED STATES PATENT AND TRADEMARK OFFICE

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4 BEFORE THE BOARD OF PATENT APPEALS
5 AND INTERFERENCES
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8 *Ex parte* JAMES M. KAIN
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11 Appeal 2008-0200
12 Application 09/871,199
13 Technology Center 3600
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16 Decided: April 21, 2008
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19 *Before* WILLIAM F. PATE, III, TERRY J. OWENS and DAVID B.
20 WALKER, *Administrative Patent Judges*.
21
22 PATE, III, *Administrative Patent Judge*.
23

24 DECISION ON APPEAL
25

26 STATEMENT OF CASE

27 The Appellant appeals under 35 U.S.C. § 134 (2002) from a Final
28 Rejection of claims 5-9, 11-14 and 25-30¹. Claims 1-3 and 10 have been

1¹ The Examiner's rejection of claims 11, 12 and 27-29 under 35 U.S.C.
2 § 103(a) as unpatentable over Markel, and rejection of claims 4 and 31 under
3 35 U.S.C. § 103(a) as unpatentable over Lemmeyer in view of Marrujo and
4 Deloustal have both been withdrawn (Ans. 3). However, claims 11, 12 and

1canceled, claims 15-24 have been allowed, and claims 4 and 31 stand
2allowable in view of the Examiner's withdrawal of his rejection. We have
3jurisdiction under 35 U.S.C. § 6(b) (2002).

4 The Appellant claims a child car seat having an armrest with a support
5mount where a first fastener secures the support mount to the seat back so
6that the first fastener lies above the arm.

7 Independent claim 6 reads as follows:

8 6. A juvenile vehicle seat assembly comprising
9 a seat including a seat bottom and a seat back,
10 a cantilevered armrest projecting from the seat back, the
11 cantilevered armrest including an arm and a support mount
12 appended to the arm and coupled to the seat back to support the
13 arm in a cantilevered position,
14 a first fastener coupled to the support mount and the seat
15 back to maintain the arm in the cantilevered position, the first
16 fastener being arranged to lie above the arm to cause the arm to
17 lie between the first fastener and the seat bottom, and
18 wherein the support mount includes an inner flange
19 coupled to the arm and an outer flange coupled to the arm and
20 positioned to lie in spaced-apart relation to the inner flange to
21 receive a ridge of the seat back in a U-shaped channel formed in
22 the support mount between the inner and outer flanges and
23 wherein the first fastener extends through the inner and outer
24 flanges.
25

26 Independent claims 11, 12 and 13 similarly recite a first fastener that
27lies above the top surface of the arm. Independent claim 25 recites a means
28for fastening the support mount to the seat back above, and below, the arm.
29Independent claim 27 recites a support mount including an upper wing that

927-29 remain rejected on other grounds, and thus, are appealed.

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1rises above the top surface of the arm, a lower wing that extends below the
2top surface of the arm, and fasteners coupling the upper and lower wings to
3secure the armrest to the seat back.

4 The prior art relied upon by the Examiner in rejecting the claims is:

5Mitchell	207,764	Sep. 3, 1878
6Van Hekken	5,297,851	Mar. 29, 1994
7Lemmeyer	6,478,372	Nov. 12, 2002
8Marrujo	Des. 254,889	May 6, 1980

9

10 The Examiner rejected claims 6-9, 11, 12, 25 and 27-29 under
1135 U.S.C. § 103(a) as unpatentable over Lemmeyer in view of Marrujo.

12 The Examiner also rejected claims 13, 14 and 26 under 35 U.S.C.
13§ 103(a) as unpatentable over Lemmeyer in view of Marrujo and Mitchell.

14 The Examiner further rejected claims 5 and 30 under 35 U.S.C.
15§ 103(a) as unpatentable over Lemmeyer in view of Marrujo and Van
16Hekken.

17 We REVERSE.

18

19 ISSUES

20 The following issues have been raised in the present appeal.

21 1. Whether the Appellant has shown that the Examiner erred in
22rejecting claims 6-9, 11, 12, 25 and 27-29 as unpatentable over Lemmeyer in
23view of Marrujo.

1KSR, 127 S.Ct. at 1740-41. The Court noted that “[t]o facilitate review, this
2analysis should be made explicit,” but “the analysis need not seek out
3precise teachings directed to the specific subject matter of the challenged
4claim” *Id.* at 1741, citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006).

5 Furthermore, in construing means-plus-function claim language in
6accordance with 35 U.S.C. § 112, ¶ 6, one must “look to the specification
7and interpret that language in light of the corresponding structure, material,
8or acts described therein, and equivalents thereof, to the extent that the
9specification provides such disclosure.” *In re Donaldson Co., Inc.*, 16 F.3d
101189, 1193 (Fed. Cir. 1994).

11

12 ANALYSIS

13 Claims 6-9, 11, 12, 25 and 27-29

14 These claims stand rejected as unpatentable over Lemmeyer in view
15of Marrujo. The Examiner states that Lemmeyer discloses a seat assembly
16that satisfies all of the limitations of these claims except for coupling of the
17first fastener above the arm which is disclosed in the Appellant’s
18Specification as being implemented via the upper wings (Final Office Action
192). The Examiner relies on Marrujo for disclosing such wings (Final Office
20Action 2; Ans. 4). The Examiner asserts that provision of such wings would
21be a matter of design choice, that it is well known to use wider support
22mount for greater support, and that such wings would simplify
23manufacturing by eliminating the need for cutting out portions of the seat
24back as required by the tongue and groove construction of Lemmeyer (Final

1Office Action 3 and 4; Ans. 7-8). Thus, the Examiner concludes that it
2would have been obvious to one of ordinary skill in the art to modify the
3seat assembly of Lemmeyer to include wings disclosed in Marrujo to result
4in the invention claimed where the first fastener lies above the arm (Final
5Office Action 3; Ans. 9).

6 With respect to independent claim 6, the Appellant argues that if the
7seat back of Lemmeyer is implemented with the leg of Marrujo, the armrest
8would no longer abut upper and lower shelves as taught by Lemmeyer
9thereby reducing the support to the arm rest (App. Br. 6). In addition, the
10Appellant argues that there is no teaching or suggestion that would have
11motivated one of ordinary skill in the art to replace the arm rest of
12Lemmeyer with the leg of Marrujo, and that the leg of Marrujo provides no
13mechanical (or other) advantage over the arm rest of Lemmeyer (App. Br.
146). Thus, Appellant contends that it would not have been obvious to replace
15the arm of Lemmeyer with the leg of Marrujo (App. Br. 6).

16 In our view, we agree with the Appellant that no motivation has been
17established by the Examiner as to why one of ordinary skill in the art would
18combine these references in the manner suggested. We fail to see how the
19leg disclosed in Marrujo relates to the armrest of Lemmeyer. Technical
20problems associated with arm rests are very different from those of legs.
21The arm rest of Lemmeyer is a laterally extending, cantilevered beam
22member for supporting the arm of a user and is subjected to bending loads.
23In contrast, the leg of Marrujo is a vertically extending member that is fixed
24at both ends for supporting the seat and the weight of the user under

1compressive loading without buckling. Thus, we find that the Examiner's
2reliance on the leg disclosed in Marrujo is inappropriate.

3 The Examiner's statement that provision of wings is merely a matter
4of design choice is not persuasive and is effectively refuted by the Appellant,
5who contends that locating the fastener above the arm provides a mechanical
6advantage over the arm rest of Lemmeyer (App. Br. 6 and 8). The
7Examiner's statement that a wider support mount provides greater support is
8well founded for compressive loads as applied in the leg of Marrujo because
9a wider mount would distribute loading over a larger area. However, the
10Examiner's reasoning is not persuasive with respect to the beam loading of
11the cantilevered arm rest where the load acts to separate the arm rest from
12the seat back. The wide support mount of the arm rest would not function to
13distribute loading, but rather, function to move the load points on the arm
14rest and the seat back, with corresponding changes to the magnitude of the
15load based on the dimension of the wing (which acts as a lever arm).

16 We further disagree with the Examiner's assertion that such a feature
17would simplify manufacturing. While it may make sense for one of ordinary
18skill to implement the mounting of the arm rest with an enlarged groove so
19that it engages the peripheral surface of the seat back without requiring
20cutting of the seat back as articulated by the Examiner, the Examiner has not
21articulated a reason as to why one of ordinary skill would provide a wider
22support mount via the wings, or couple the fastener above the arm. The
23Examiner has not articulated any other reasons for modifying the arm rest of
24Lemmeyer to result in the invention of claim 6.

1 Therefore, the Appellant has shown that the Examiner erred in
2rejecting independent claim 6 as unpatentable over Lemmeyer and Marrujo.
3The Appellant further separately argued claims 7-9 but these arguments are
4moot because these claims ultimately depend from independent claim 6
5discussed above (App. Br. 7). Therefore, Examiner erred in rejecting
6dependents claim 7-9 as unpatentable over Lemmeyer and Marrujo as well.

7 The rejected independent claim 11 recites a first fastener positioned
8above the top surface of the arm that is coupled to apertures in the support
9mount. The rejected independent claims 12 and 27 recite an upper wing
10rising above the top surface of the arm and a first fastener positioned above
11the top surface of the arm. The Examiner rejected these claims based on
12Lemmeyer and Marrujo (Final Office Action 3 and 4; Ans. 10). The
13Appellant relies on the arguments submitted with respect to independent
14claim 6 to argue that these claims are patentable (App. Br. 8 and 9). Thus,
15for the reasons discussed *supra* regarding the Examiner's rejection of claim
166, the Appellant has also shown that the Examiner erred in rejecting
17independent claims 11, 12 and 27. In addition, the Appellant has also shown
18that the Examiner erred in rejecting dependent claims 28-29 that ultimately
19depend from independent claim 27.

20 Claim 25 is in 35 U.S.C. § 112, sixth paragraph format and recites a
21“means for fastening the support mount to the seat back above and below the
22arm and on a side of the side edge to support the arm in a cantilevered
23position to stabilize the arm against movement.” We refer to the drawings
24and the Specification to interpret the recited means as corresponding to the

1upper wing 77, the lower wing 78, the fasteners 88, 89, the holes 86, 87 in
2the wings and the seat back for receiving the fasteners, and equivalents
3thereto (Figs. 1-3; Spec. 4, ll. 20-33; Spec. 6, ll. 3-15). The Examiner also
4rejected this claim based on Lemmeyer and Marrujo (Final Office Action 3
5and 4; Ans. 10). The Appellant again relies on the arguments submitted
6with respect to independent claim 6 (App. Br. 8). Thus, for the reasons
7discussed *supra* regarding the Examiner's rejection of claim 6, the Appellant
8also has shown that the Examiner erred in rejecting independent claim 25 as
9well.

10 Therefore, in view of the above, the Appellant has also shown that the
11Examiner erred in rejecting claims 6-9, 11, 12, 25 and 27-29 as unpatentable
12over Lemmeyer and Marrujo.

13

14 Claims 13, 14 and 26

15 The Examiner rejected these claims as unpatentable over Lemmeyer
16in view of Marrujo and Mitchell (Final Office Action 5; Ans. 11 and 12).
17Independent claim 13 recites a first fastener that lies above the top surface of
18the arm, and claim 14 depends from claim 13. Claim 26 depends from
19independent claim 25 discussed *supra*. The Appellant's separate argument
20regarding this rejection is noted but is moot because Examiner's application
21of Mitchell does not cure the deficiencies of the inappropriate combination
22of Lemmeyer and Marrujo (App. Br. 11). Thus, for the reasons discussed
23*supra* regarding the Examiner's rejection of claim 6, we find that the

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